

**ASSEMBLY BILL**

**No. 378**

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**Introduced by Assembly Member Hueso**

February 14, 2013

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An act to add Chapter 6 (commencing with Section 85285) to Part 3 of Division 35 of the Water Code, relating to resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 378, as introduced, Hueso. Resources: Delta research.

Existing law, the Sacramento-San Joaquin Delta Reform Act of 2009, requires the Delta Stewardship Council to develop, adopt, and commence implementation of a comprehensive management plan for the Delta, meeting specified requirements. The act requires the Delta Independent Science Board to develop a scientific program relating to the management of the Delta.

This bill would require a person conducting Delta research, as defined, whose research is funded, in whole or in part, by the state, to take specified actions with regard to the sharing of the primary data, samples, physical collections, and other supporting materials created or gathered in the course of that research. The bill would authorize the Delta Independent Science Board to adopt guidelines to provide adjustments to, and, where essential, exceptions from, these requirements and would exempt the adoption of these guidelines from the procedural requirements for the adoption of regulations. The bill would require a state agency that funds or participates in Delta research to implement policies to disseminate and share Delta research results, in a specified manner.

The bill would make a researcher ineligible for state funding if the researcher does not provide the information required by the bill within

6 months of the date of the final publication or public dissemination of the research findings, until the researcher complies with the bill's requirements.

The bill would provide that all legal rights to tangible property collected or created during Delta research remain with the researcher, as determined by the policies of the organization providing the grant, contract, or other agreement, except as specified, but would require a researcher to make this tangible property appropriately available to other researchers.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 6 (commencing with Section 85285) is  
2 added to Part 3 of Division 35 of the Water Code, to read:

3  
4 CHAPTER 6. DISSEMINATION AND SHARING OF STATE-FUNDED  
5 DELTA RESEARCH DATA

6  
7 85285. For purposes of this chapter, the following definitions  
8 shall apply:

9 (a) "Delta research" means scientific inquiry that meets one or  
10 both of the following conditions:

11 (1) The San Francisco Bay or the Sacramento-San Joaquin Delta  
12 is, in whole or in part, the locus of the research.

13 (2) The research addresses environmental factors relevant to  
14 this division, including, but not limited to, hydrodynamics, salinity,  
15 geomorphology, studies related to aquatic species, and water  
16 quality, including mercury contamination, in the Sacramento River,  
17 the San Joaquin River, or any tributary, including any  
18 impoundment on any tributary, of the Sacramento or San Joaquin  
19 Rivers.

20 (b) "Researcher" means a person who conducts Delta research  
21 and whose research is funded, in whole or in part, by the state,  
22 including, but not limited to, by a research grant.

23 (c) "Tangible property" means personal property other than  
24 equipment and intellectual property.

25 85285.5. The Legislature finds and declares all of the following:

1 (a) The state normally allows researchers to retain principal  
2 legal rights to intellectual property developed through state-funded  
3 research to provide incentives for development and dissemination  
4 of inventions, software, and publications that can enhance their  
5 usefulness, accessibility, and upkeep.

6 (b) These incentives do not, however, reduce the responsibility  
7 that investigators and organizations have, as members of the  
8 scientific and engineering community, to make results, data, and  
9 collections available to other researchers.

10 (c) Some state-funded Delta research supports the collection  
11 or creation of tangible property, such as insects, marine life, drilling  
12 core samples, and genetically altered microorganisms.

13 85286. Except as provided in Section 85286.5, a researcher  
14 shall do all of the following:

15 (a) Provide the Delta Science Program with a copy of all primary  
16 data created for conducting Delta research.

17 (b) Promptly prepare and submit for publication, with authorship  
18 that accurately reflects the contributions of those involved, all  
19 significant findings from Delta research.

20 (c) Permit and encourage the publication of Delta research by  
21 those actually performing Delta research, unless a state funding  
22 recipient intends to publish or disseminate those findings by itself.

23 (d) Share with other researchers, at no more than incremental  
24 cost and within a reasonable time, the primary data, samples,  
25 physical collections, and other supporting materials created or  
26 gathered in the course of conducting Delta research.

27 (e) Encourage and facilitate the sharing of the primary data,  
28 samples, physical collections, and other supporting materials  
29 created or gathered in the course of conducting Delta research.

30 (f) Release privileged or confidential information only in a form  
31 that protects the privacy of individuals and subjects involved.

32 85286.5. The Delta Independent Science Board established  
33 pursuant to Section 85280 may adopt guidelines to provide  
34 adjustments to, and, where essential, exceptions from, the  
35 requirements of this chapter, for the purposes of safeguarding the  
36 rights of individuals and subjects, or the validity of the results, and  
37 the integrity of collections, or accommodating legitimate research  
38 interests. The guidelines adopted pursuant to this section are not  
39 regulations for purposes of, and shall not be subject to, Chapter

1 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
2 Title 2 of the Government Code.

3 85287. A state agency that funds or participates in Delta  
4 research shall implement policies to disseminate and share Delta  
5 research results, in ways appropriate to field and circumstances,  
6 including through the proposal review process, conducting  
7 negotiations for, and imposing conditions upon, awards, providing  
8 appropriate support and incentives for data cleanup, documentation,  
9 dissemination, and storage, and by taking other similar actions.

10 85287.5. A researcher that does not provide the information  
11 in the manner required by this chapter within six months of the  
12 date of the final publication or public dissemination of the findings  
13 of the Delta research results is not eligible for state funding until  
14 the researcher complies with this chapter.

15 85288. (a) All legal rights to tangible property collected or  
16 created during Delta research remain with the researcher, as  
17 determined by the policies of the organization providing the grant,  
18 contract, or other agreement specifying the rights and obligations  
19 of the researcher, except as otherwise provided in that grant,  
20 contract, or agreement.

21 (b) A researcher shall, as a member of the scientific and  
22 engineering community, make the tangible property specified in  
23 subdivision (a) appropriately available to other researchers.